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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,402	05/16/2001	Khaled A. Al-Zoubi	1266-001	2460

23485 7590 11/27/2002

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EXAMINER

SIMONE, CATHERINE A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/27/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/858,402

Applicant(s)

AL-ZOUBI ET AL.

Examiner

Catherine Simone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 September 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## RESPONSE TO AMENDMENT

### *Rejections Repeated*

1. The 35 USC 112 rejections of claims 1-14 are repeated for reasons previously of record in Paper #3, Pages 3 and 4, Paragraph #3.
2. The 35 USC 102 rejection of claims 1-14 as anticipated by Fournier is repeated for reasons previously of record in Paper #3, Pages 4 and 5, Paragraph #5.

### *Response to Arguments*

3. Applicant's arguments filed September 19, 2002 have been fully considered but they are not persuasive. Applicant failed to amend claims 1-14 in response to Examiner's rejection of claims 1-14 under 35 USC 112, second paragraph. The noted recitations set forth in the claims, as clearly pointed out in the rejection, are still deemed vague and indefinite as indicated. Thus, claims 1-14 remain rejected under 35 USC 112, second paragraph for the reasons set forth in Paper #3, Pages 4 and 5, Paragraph #3.

Regarding the art rejection of claims 1-14 under 35 USC 102, Applicant states "Fournier in no way teaches the reinforcement of monopoles with complementary hemi-sleeves as claimed in the present invention. Overall, Fournier teaches an improved design structure for a complete utility pole; by contrast, the present invention is designed specifically for the reinforcement of existing designs or structures of monopoles and is attachable thereto completely on the exterior of the pole. Thus, Fournier does not teach a reinforcing sleeve with mounting support incorporated, as the present invention specifies and clearly describes." However, it is to be

pointed out that the recitation in claim 1 “thereby providing integrated monopole reinforcement” is merely a statement of intended use.

In response to applicant's argument that “Fournier makes no description of using such accessory mount as a reinforcement sleeve for the monopole”, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., “the reinforcement of the monopole to lateral stresses in any way” and “the reinforcing sleeves of the present invention are used to reinforce overstressed locations of existing poles”) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van-Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding claim 2, Applicant states that in Fournier “the cited passages does not reveal the use of flanges for fastening the sleeve to pole flanges as in the present invention.” However, Fournier clearly discloses flanges in col. 7, lines 35-38 wherein recites “The symmetrical portions are provided with lateral mounting flanges (not shown) through which the bolts are inserted to retain the two symmetrical portions together.”

Regarding claim 7, Applicant argues “the placement of accessory sleeves according to the invention of Fournier actually weakens the monopole and placement is limited to adjacent section joints.” However, this argument is not clearly understood. It would appear that the accessory sleeve of Fournier clearly could be used for optimal reinforcement of the monopole as the claim recites.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (703) 605-4297. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Harold Pyon can be reached on (703) 308-4251. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Catherine Simone  
Examiner  
Art Unit 1772

November 21, 2002

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1/1/2

11/26/02